

Local Government Employee-Management Relations Board E-Newsletter

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Recent Decisions

Please note that summaries of recent decisions are provided for informational purposes only and are not intended to substitute for the opinions of the Board. These summaries should not be cited to or regarded as legal authority. The EMRB will provide copies of the decisions upon request. They also may be found on our website.

Item No. 817; Case No. 2016-011; Lyon County Education Association v. Lyon County School District. This order is a result of a Petition for Declaratory Order filed by the Lyon County Education Association. Most of the cases that come before the EMRB allege that a party committed a prohibited practice for behavior that has already taken place. In contrast, a petition for declaratory order poses one or more questions for the Board to answer. Although based on a real-life issue, the party filing such a request seeks to clarify how the parties should behave in the future so as to avoid committing a prohibited practice. The EMRB believes that this procedure could – and should – be used more often under the old adage that “an ounce of prevention is worth a pound of cure.”

What is an employer to do when a bargaining unit employee, who is not a union member, wants someone to represent them at a disciplinary or grievance hearing? In Lyon County, a teacher wanted to use a non-LCEA representative. The school district claimed it did not know that the representative of the teacher was affiliated with a union other than the LCEA. The questions posed regarded the applicability of NRS 288.140.

In its order, the Board found persuasive a court order on this subject, Washoe Ed. Support Professionals v. EMRB, Case No. 09 OC 00086 1B (2010). Accordingly, a non-member employee may be represented by counsel, which may include a friend, relative, co-worker or attorney; provided that the exclusive bargaining agent is allowed to also be present to monitor compliance with the collective bargaining agent.

Moreover, the employer has the duty to inquire of the employee or representative concerning the status of the employee as a non-member, the nature of the relationship between the employee and representative, and the employment or affiliation of the representative. Such an inquiry is necessary to ensure that the status of the recognized bargaining agent is respected and that the employer does not commit a prohibited practice. After such an inquiry the representative cannot function as such when the employer knows or reasonably believes that the representative is serving to any extent in his/her “union” capacity on behalf of a rival organization. In contrast, the representative can serve if acting independently of a rival organization and is acting as a friend, relative, co-worker or attorney.

Inside This Issue

- 1 **Recent Decisions**
- 2 **On the Horizon** – Learn about upcoming meetings
- 2 **Electronic Digest of Decisions – Hyperlinks Now Added**
- 2 **A Reminder About Electronic Service of Documents**
- 2 **It's Time for Your Required Annual Filings**
- 2 **Did You Know?**
- 3 **In the Queue** – See the cases waiting to be heard
- 3 **We're Mooving !**

On the Horizon

The next meeting of the Board, which will be held in Las Vegas, will be Tuesday, November 15th through Thursday, November 17th. The agenda for the meeting will be issued on November 7th. At that time the Board is scheduled to hear one case, which is 2015-034, Las Vegas Peace Officers Association v. City of Las Vegas. This dispute revolves around the issue of paid union leave time under SB 241.

The Board is also scheduled to deliberate on two prior cases heard and for which post-hearing briefs will have been filed by then. The first is 2015-013, Eric Brown v. Las Vegas Metropolitan Police Department. This case involves an alleged unilateral change and transfer of Officer Brown after he had complained about an alleged department policy prohibiting the ticketing of Nation of Islam members distributing literature in street medians, which the department denies. The second case set for deliberation is 2015-017, North Las Vegas Police Supervisors Association v. City of North Las Vegas. Although this case has a number of allegations, the heart of this case concerns allegations that the City of North Las Vegas gave work normally done by sergeants to other police officers.

Electronic Digest of Decisions – Hyperlinks Now Added

A few months ago we announced that we released an electronic version of an old product that was last updated in 2008 which provides summaries of all the cases decided by the agency since its inception in 1969. We also promised at that time to continue to improve that product. To this end we have now placed on our website the most recent version of the product. This new version has hyperlinks in the order summaries, which will automatically take you to the text of the corresponding order.

A Reminder About Electronic Service of Documents

As mentioned last month, our regulations have changed. Documents filed pursuant to a pending case before the agency may now be served on opposing parties by electronic service; i.e., by e-mail. You no longer need to “snail” mail the documents, unless a party opts out of the electronic service of documents. In February 2015 our regulations were changed to allow for the electronic filing of documents with the agency and now the electronic service of those documents is an extension of this process that was requested by you, our users. And it also saves paper! Please call us if you have any questions on this new option.

It's Time for Your Required Annual Filings

Every local government and employee organization must annually file a report with the EMRB each November. As was done for the past two years, this year we again will allow the annual reports to be filed via e-mail. Also like last year, we e-mailed the forms, thus saving time, paper and money. The forms were e-mailed to the official contact person at each local government and employee organization on October 21st. If you are the official contact person please look for the form in your e-mail inbox for our e-mail. If you are no longer the official contact person please forward the e-mail to the person who should now be the official contact person.

As we receive the updated information and copies of new collective bargaining agreements, we will be posting this updated information on our website. If you have any questions on the process please do not hesitate to contact us at the phone number or e-mail address below.

Did you know

our office will be closed on Friday, October 28th for Nevada Day and also on Friday, November 11th for Veterans Day? Even though we will be off, documents electronically filed on those days will be date-stamped as of the date received in our inbox.

In the Queue...

Once initial pleadings, including pre-hearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. The Board has now scheduled cases through February 2017:

November 2016

2015-034, Las Vegas Peace Officers Association v. City of Las Vegas

December 2016

2016-014, Daniel Burgess v. Clark County School District

2016-010, Krumme & PMSA v. Las Vegas Metropolitan Police Department

January 2017

2015-026, Cesar Sedano & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department

2016-004, Richard Marshall v. Nye County

February 2017

2015-028, Bonvicin & Moore v. City of North Las Vegas

March 2017

2016-007, Thomas O'Neil v. City of Las Vegas

In addition to the above cases which have hearing dates there is one additional case yet waiting for a hearing date to be assigned:

2016-016, Brown et al. & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department



The state has entered into an agreement to lease three floors of an office building on Sahara Avenue, about a mile west of Interstate 15 in Las Vegas. The new office space will accommodate 10 of the 13 divisions as well as the Director's office within the Department of Business and Industry. We are excited about this opportunity as the department will have three hearing rooms of various sizes that can be reserved. This means that the EMRB will no longer need to have a dedicated hearing room.

The EMRB's own office, which will be on the second floor, will include a better reception area, a dedicated space for our office equipment and a separate conference room. The space will thus allow us to have proper facilities for conducting settlement conferences and other small, in-person meetings. The tentative target date for the move will be sometime in January. As we get closer to the date we will let you know the exact date. Once moved in we plan on holding our annual open forum, at which we get good ideas for improving the agency, at our new facility. Stay tuned!

"About the EMRB"

The Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise.